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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/819,358
Filing Date: March 28, 2001
Appellant(s): CHEN ET AL.

Sanjeev K. Dhand
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/26/2009 appealing from the Office action
mailed 12/27/2007

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| | | |
|-----------|---------------|--------|
| 5506393 | Ziarno | 4-1996 |
| 6,519,572 | Riordan et al | 2-2003 |
| 6,539,446 | Chan | 3-2003 |

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| | | |
|-----------|---------------|---------|
| 6,308,201 | Pivowar et al | 10-2001 |
| 5,665,952 | Ziarno | 9-1997 |
| 6,535,871 | Romansky | 3-2003 |

(9) Grounds of Rejection

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 5-9, 11, 12, 16, 20, 22, 26-29, 32, 33, 35-38, 40, 45-45, 47 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 5,506,393 issued to Ziarno (hereafter Ziarno) in view of US Pat. No. 6,519,572 issued to Riordan et al (hereafter Riordan).

Regarding claims 1, 22, 35, 36, 38, 45, Ziarno discloses one or more virtual data islands [first donation kettle, second donation kettle 100, Fig 1] partitioned inside the database [Fig 1, donation kettle network] each virtual data island storing client data for a specific client engaged in fundraising [account of charitable organization, col 5, lines 4-10], the client data containing one or more constituent records [col. 3, lines 59-65, col 9, lines 57-60], the one or more constituent records including information about individuals [information about a contributor and a donation, col 3, lines 59-65, account number of a contributor, col 9, line 8], the information

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stored in a plurality of fields [col 9, lines 1-10] wherein each individual is assigned a unique identifier, the unique identifier for an individual being common across the virtual data islands [col 4, lines 21-25, first donation kettle 100 communicates with a second donation kettle 100], a data pool having data from one or more constituent records stored in the one or more virtual data islands [tally of a credit card 145 donation, tally of a debit card 150 donation, tally of a cash donation or combinations thereof for a single contributor or a plurality of contributors, col. 5, lines 10-20], wherein the results of the analysis are used in fundraising campaigns, one or more program codes for analyzing the data pool [software routine, col 5, lines 17-20, statistical software routine, col 5, lines 30-40]

Ziarno discloses in col 9, lines 48-50 a receipt is produced for a single or plurality of donations – the receipt being for tax purposes, col 9, line 67 which reads on a compilation of unique identifiers of the individuals whose records are in the virtual data islands. Ziarno fails to disclose a linking table. Riordan discloses a linking table [col. 10, lines 01-15]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ziarno to include a linking table as taught by Riordan for the purpose of speedy analysis of marketing data and report generation [col. 10, lines 1-15].

Ziarno discloses analyzing data in the data pool, wherein results of the analysis are shared with clients who have data in the data pool [charitable organization col 1, lines 20-40, report, col 5, lines 23-30]

Regarding claims 5, 6, 26 and 27, Ziarno discloses the essential elements of the claimed invention except for the internet. Riordan discloses the internet [col. 2, lines 60-63]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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modify Ziarno to include the internet as taught by Riordan for the purpose of implementing an efficient market data collection system [col. 2, lines 60-63].

Regarding claims 7 and 32 , Ziarno discloses a charitable organization but does not disclose a nonprofit organization. Official Notice is taken that a nonprofit organization is well-known and expected in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ziarno to include a nonprofit organization since the IRS grants nonprofit status to most charitable organizations. *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970).

Regarding claim 8, Ziarno discloses the client is a person [col. 3, lines 59-65]

Regarding claims 9 and 28, Ziarno discloses the results of the analysis are used to identify potential donors likely to donate to one or more charities [col. 5, lines 24-28].

Regarding claim 11, Ziarno discloses a program code for statistical analysis [col. 5, lines 10-22]

Regarding claims 12 and 29, Ziarno discloses a probability of a charitable donation [monthly statement, col.5, line 26]

Regarding claim 33, Ziarno discloses a charitable organization [col. 1, lines 20-25].

Regarding claim 20, Ziarno discloses a common identifier shared by the individual donor records across the virtual data islands [credit card donation col. 3, line 48].

Regarding claim 16, Ziarno discloses the essential elements of the claimed invention except for automatically updating fields. Riordan discloses automatically updating fields [col. 10, lines 1-15]. It would have been obvious to one of ordinary skill in the art at the time the

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invention was made to modify Ziarno to include automatically updating fields as taught by Riordan for the purpose of maintaining concurrency of data.

Regarding claim 37, Ziarno discloses wherein the client is a charitable organization [col 3, lines 55-58]

Regarding claims 40, 47 and 53, Ziarno discloses a master island residing in the database and containing a compilation of the fields in the one or more virtual data islands [terminal 120, Fig 1]

Claims 17, 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziarno in view of Riordan as applied to claim 16 above, and further in view of US Pat. No. 6,539,446 issued to Chan (hereafter Chan).

Regarding claims 17, 48 and 49, the combination of Ziarno and Riordan discloses the elements of the claimed invention except for automatic notification of an update option.

Chan discloses automatic notification of an update option [col. 2, lines 60-64]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination of references to include automatic notification of an update as taught by Chan for the purpose of notification that a lock failure has occurred [col. 2, lines 60-64].

3. Claims 10, 13-15, 41, 43, 44 and 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Ziarno and Riordan as applied to claim 1 above, and further in view of US Pat. No. 6,308,201 issued to Pivowar et al (hereafter Pivowar)

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Regarding claims 10, 43 and 50, the combination of Ziarno and Riordan discloses the essential elements of the claimed invention except for an opt-in field indicating whether a client has elected to share data. Pivowar discloses an opt-in field indicating whether a client has elected to share data [Fig 11, 702]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination of references to include an opt-in field indicating whether a client has elected to share data as taught by Pivowar for the purpose of managing concurrent access to records/data to ensure lowest possible response times.

Regarding claim 13, the combination of Ziarno and Riordan discloses the elements of the claimed invention as noted above and furthermore, Pivowar discloses write-access to the field [Fig 5, 512, col 7, lines 29-38].

Regarding claim 14, Ziarno, Riordan and Pivowar discloses the essential elements of the claimed invention as noted above and furthermore, Pivowar discloses the opt-in field accepts a multi-valued variable [Fig, 11, 702].

Regarding claim 15, Ziarno, Riordan and Pivowar discloses the essential elements of the claimed invention and for sharing data with others in different manners [Figs 5 and 11]

Regarding claim 41, Ziarno, Riordan and Pivowar discloses means for allowing a client to update constituent records stored in their virtual data island [Fig 11, 702].

Regarding claim 44, Ziarno, Riordan and Pivowar discloses wherein if the client has elected to share data, data from constituents records in the client's virtual data island are stored in the data pool and the client has access to the results of the analysis of data in the data pool [Ziarno, col 5, lines 30-40]

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Regarding claims 51 and 52, Ziarno, Riordan and Pivowar discloses wherein if the client has elected to share data, data from constituent records in the client's virtual data island are stored in the data pool and the client has access to the results of the analysis of data in the data pool [Ziarno, col 5, lines 30-40]

4. Claims 18, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziarno in view of US Pat. No. 5,665,952 issued to Ziarno (hereafter Ziarno 952).

Regarding claim 18, 30 and 31, Ziarno discloses the essential elements of the claimed invention except for login access for donors. Ziarno 952 discloses login access for donors [abstract]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ziarno to include login access for donors as taught by Ziarno 952 for the purpose of convenience in donating to a charitable organization [abstract].

Claims 19, 21 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Ziarno and Riordan as applied to claim 1 above, and further in view of US Pat. No. 6,535,871 issued to Romansky et al (hereafter Romansky).

Regarding claims 19 and 34, Ziarno discloses the essential elements of the claimed invention except for a political organization. Romansky discloses a political organization [col. 2, lines 10-25]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ziarno to include a political organization as taught by Romansky

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for the purpose of preventing the revealing of top contributors to a political campaign [col. 2, lines 10-25].

Regarding claim 21, Ziarno discloses the essential elements of the claimed invention except for an opt-out field. Romansky discloses an opt-out field [col. 2, lines 10-25]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ziarno to include an opt-out field as taught by Romansky for the purpose of preventing the revealing of top contributors to a political campaign [col. 2, lines 10-25].

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Ziarno, Riordan and Pivowar as applied to claim 41 and further in view of Chan.

Regarding claim 42, the combination of Ziarno, Riordan and Pivowar discloses the elements of the claimed invention as noted above but does not disclose means for automatically updating a field in a virtual data island. Chan discloses automatic notification of an update option [col. 2, lines 60-64]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination of references to include automatic notification of an update as taught by Chan for the purpose of notification that a lock failure has occurred [col. 2, lines 60-64].

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(10) Response to Arguments

Response No. 1

Appellant argues that TSM is missing. Examiner responds that KSR forecloses the argument that a specific teaching, suggestion or motivation is required to support a finding of obviousness. Ex parte Smith –USPQ2d --, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007) (citing KSR, 82 USPQ2d at 1396)

Response No. 2

Appellant argues that Ziarno does not disclose claim 1 limitation “the unique identifier for an individual being common across the virtual data islands.” Examiner is not persuaded. The claimed subject matter is rejected under 35 U.S.C. 103(a) which includes “whether the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which to which said subject matter pertains.” It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide “the unique identifier for an individual being common across the virtual data islands” for the reasons disclosed by Ziarno.

Ziarno discloses the following in column 3, lines 45-65:

FIG. 1 is an overall configuration of a **donation kettle network** according to the present invention.

In one embodiment, a donation kettle 100 gathers a cash donation 143. In a second embodiment, a donation kettle 100 gathers a credit card donation 145. In a third embodiment, a donation kettle 100 gathers a debit card 150 donation. The term "card" when used without the descriptors "credit" or "debit" refers to both a credit card and a debit card and includes IC Cards ("smart

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cards"), magnetically striped cards, and other forms of information bearing cards. The term "card" also contemplates a private label card issued or maintained by a charitable organization or an affiliate of a charitable organization, and a prepaid card that can be purchased by cash, check, credit, or debit card.

A donation kettle 100 collects and provides information about **a contributor and a donation**. Using a communication link 140, preferably an RF (radio frequency) communication link, an infra-red or other free-propagating electromagnetic energy communication link, **a donation kettle 100 communicates the information about a contributor to terminal 120 in one embodiment.**

Ziarno discloses the following in column 7, lines 10-20:

One embodiment of donation kettle 100 contains a credit card donation processor 160 and a debit card donation processor 240, e.g. processor 160/240. The present invention contemplates that donation kettle 100 might only contain a credit card donation processor 160. Alternatively, the present invention also contemplates that donation kettle 100 might only contain a debit card donation processor 240. In yet a further embodiment, the present invention contemplates that both a credit card donation processor 160 and a debit card donation processor 240 might be **located on donation kettle 100 at different physical locations.**

Examiner interprets "unique identifier for an individual" as the credit card number of the donator's credit card. Examiner interprets "virtual data island" as a donation kettle. Ziarno discloses a network of donation kettles (Fig 1). Ziarno discloses a contributor may use a credit card 145 and/or a debit card 150 for the purpose of making a donation (Fig 3., shows Visa, Discover, Mastercard). Ziarno discloses donation kettles at different physical locations, each donation kettle comprising both a credit card donation processor 160 and a debit card donation processor 240 (Fig. 1, 160/240). One of ordinary skill in the art would consider it obvious that a contributor may make a donation via his/her credit/debit card at a plurality of donation kettles because a plurality of donation kettles comprise card processors. One of ordinary skill in the art would consider it obvious that the credit card number is common across the donation kettles

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because a contributor can enter his/her credit card at a plurality of donation kettles comprising the donation kettle network (Fig 1). One of ordinary skill in the art would understand that Ziarno discloses the claim limitation “the unique identifier for an individual being common across the virtual data islands” because the contributor's credit card is accepted at a plurality of donation kettles.

Response No. 3

Ziarno's abstract comprises the following:

A donation kettle permits a contributor to make a donation that consists of a display, keyboard, a surface for collecting a cash donation, a credit card and/or debit card donation processor. The donation kettle associates a donation **with an account of a contributor**, tallies information regarding a number of donations and stores information regarding a donation, and a plurality of donations. The donation kettle is part of a donation kettle network which consists of a donation kettle, a terminal , and a communication link between the donation kettle and the terminal.

Ziarno discloses the following in column 11, lines 25-35:

FIG. 4 is a perspective view of an embodiment of an exemplary donation kettle 100 with a card donation processor docking station 1999, a card donation processor 160/240, a keyboard 890, a display 840, surface 125 containing slot 102, terminal 120, a cash donation 143, a credit card donation 145, and a debit card donation 150. This exemplary donation kettle 100 has the features described herein, with the addition of a donation plate docking station 1999 located on the side of donation kettle 100.

Examiner interprets “unique identifier for an individual” as the account number of the account of a contributor. Considering the network of donation kettles per Figure 1, one of ordinary skill in the art would consider it obvious to provide a keyboard 890 at two or more donation kettles for the convenience of a contributor. It follows that a contributor may enter his/her account number at two or more donation kettles comprising keyboards. One of ordinary skill in the art would consider Ziarno teaches “unique identifier for an individual being common across the virtual data

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island” because an account number of a contributor may be entered at a plurality of donation kettles comprising a keyboard.

Response No. 4

Appellant argues that Ziarno does not disclose the claim 1 limitation “the unique identifier for an individual being common across the virtual data islands.” Examiner is not persuaded. Ziarno does not disclose an access control list which maps an account of a contributor to a particular donation kettle because Ziarno does not disclose a unique identifier for a donation kettle. One of ordinary skill in the art would conclude that Ziarno teaches “the unique identifier for an individual being common across the virtual data islands” because Ziarno does not teach away from above limitation (MPEP 2141.02).

Response No. 5

Appellant argues that Ziarno does not disclose the claim 1 limitation “the unique identifier for an individual being common across the virtual data islands.” Examiner is not persuaded.

Ziarno discloses in the Abstract:

A donation kettle that permits a contributor to make a donation that consists of a display, keyboard, a surface for collecting a cash donation, a credit card and/or debit card donation processor. The donation kettle associates a donation with an account of a contributor, tallies information regarding a number of donations, and stores information regarding a donation and a plurality of donations. The donation kettle is part of a donation kettle network which consists of a donation kettle, a terminal and a communication link between the donation kettle and the terminal.

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Ziarno discloses in column 9, lines 40-65:

FIG. 2b is a schematic block diagram of one embodiment of a donation kettle 100 with a card reader 307 and associated circuitry 303, communication circuitry 990, a receipt generator (a printer 821 and associated circuitry 823). This embodiment has the features generally described herein, as well as those described below.

Preferably, a receipt generator (a printer 821 and associated circuitry 823) is located on or near a donation kettle 100. In an alternate embodiment, **the receipt generator may be located at a remote location. The receipt generator produces a receipt for a single donation or a plurality of donations.** In one embodiment, a donation kettle 100 communicates, via a communication link, preferably an RF (radio frequency) communication link or an infra-red communication link, with the receipt generator. **In another embodiment, a donation kettle 100 communicates donation and contributor information, via a communication link to terminal 120.** Terminal 120 then communicates the contributor and donation information to the receipt generator. The communication consists of information about the contributor, the donation, the date, the intention for which the donation was given, and the like. **The receipt generator processes the information about the contributor and the donation to generate a receipt.** The receipt may be generated automatically by the receipt generator to be picked up by the contributor at or soon after visiting the donation kettle 100, or may be generated for mailing or faxing to the contributor. A contributor of a charitable organization may desire the receipt for tax purposes.

Examiner interprets the claimed “unique identifier for an individual” as contributor information/account of a contributor. Contributor information comprises an account of a contributor, an account number being inherent in account. Ziarno discloses the receipt may be required by a contributor for tax purposes. A single tax receipt for a plurality of donations made during a tax year is well-known and expected in the art. Furthermore, one of ordinary skill in the art would consider that the contributor information including contributor account number must be common across the virtual data islands because Ziarno teaches the remote generator processes information about the contributor to produce a receipt for the contributor. On the other hand, Ziarno does not (emphasis added) disclose a remote receipt generator which processes information about a donation on the basis of the plurality of kettles shown in Figure 1, because if

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this were the case, multiple tax receipts would be produced. Each contributor would receive a plurality of tax receipts, i.e.. a tax receipt for each of the plurality of donation kettles at which the contributor made a donation. One of ordinary skill in the art would consider multiple tax receipts of no benefit to the contributor nor to the charitable organization.

Response No. 6

Appellant argues that Ziarno does not disclose the claim 1 limitation “the unique identifier for an individual being common across the virtual data islands.” Examiner is not persuaded.

Ziarno discloses in column 2, lines 38-42:

It is yet another object of the present invention to provide a donation kettle network that can collect, **integrate** and display information associated with an individual donation or a plurality of individual donations and provide useful quantitative data.

Ziarno discloses in column 4, lines 25-35:

In yet another embodiment, a plurality of donation kettles 100 communicate contributor card information and/or donation amount information to terminal 120 via communication link 140. Terminal 120 communicates contributor card information and/or donation information to a card account processor database 1032 (via link 1030)(Fig. 2b). In yet an alternate embodiment, a plurality of donation kettles 100 communicates contributor card information and donation information to a modem for transmission to a **card account processor database**.

Ziarno discloses in column 11, lines 20-25:

In an alternate embodiment, card account processor 1032 (Fig. 3a) database receives card account information and/or donation account information from a **networked group of card readers 307** and associated circuitry.

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Ziarno discloses that card account information entered at one or more donation kettles is communicated via a transmission link to a common card account processor database 1032 (Fig. 2b). One of ordinary skill in the art would consider that Ziarno teaches “wherein each individual is assigned a unique identifier, the unique identifier for an individual being common across the virtual data islands” because a networked group of card readers transfers contributor card information to a card account processor database.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Conferees:

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Appeals Practice

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